

TENNESSEE REAL ESTATE COMMISSION MINUTES
March 5-6, 2008

The Tennessee Real Estate Commission convened on March 5, 2008, at 10:30 a.m. at the Sumner County Administration Building, 355 N. Belvedere Drive, Gallatin, TN 37066. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner David Flitcroft, Commissioner Grover Collins, Commissioner Gary Cunningham, Commissioner Carol Tate, Commissioner Wendell Alexander, and Commissioner Isaac Northern. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Assistant General Counsel, Staff Attorney, Mandy Brady, Paralegal, and Kelly McDermott, Administrative Secretary.**

Commissioner Carol Tate and Kathryn Wiseman were absent from the room beginning at 10:30 a.m. to hold an informal conference.

The next order of business was the adoption of the agenda (**Exhibit 1**) for the March 2008 Commission meeting. Commissioner Alexander asked that an open discussion with legal counsel Kathryn Wiseman be added to the agenda during her report. There were no objections to the addition.

The next order of business was the approval of the revised minutes from the January 2008 meeting and the minutes from the February 2008 meeting (**Exhibits 2 & 3**). **Vice-Chairman Stephenson made a motion to approve the revised January and February 2008 minutes; seconded by Commissioner Joh; Unanimous Vote; Motion Carried.**

INFORMAL APPLICANT CONFERENCES

Monty Reeves, former licensee, 245936, appeared with his Principal Broker Susan K. Fessler to ask that his revoked license be reinstated without penalty. Mr. Reeves disclosed a conviction of Assisting in Structuring a Financial Transaction in 2000. His real estate license was revoked in 2000 because of non-disclosure of the conviction. **Commissioner Alexander made a motion to approve the reinstatement of Mr. Reeve's license without penalty; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.**

Mark Williamson, applicant, appeared with his Principal Broker Hollace McKinnley to request approval as an affiliate broker. Mr. Williamson disclosed convictions for Attempted Theft, Breaking & Entering, and Drinking Underage in 1991. He also disclosed convictions for Criminal Trespassing and DUI in 1992 and Drag Racing in 1994. **Commissioner Collins made a motion to approve; seconded by Commissioner Flitcroft; Unanimous Vote; Motion Carried.**

LICENSEE/APPLICANT REQUESTS

Tony Gant, applicant, 316606, appeared with his Principal Broker, Jake Almond, to request a waiver of the 50 mile rule. Mr. Gant's request was heard and denied at the February 2008 meeting; however, he was given the option to appear with his principal broker to appeal the denial. Commissioner Northern made a motion to grant a waiver of the 50 mile rule; seconded by Commissioner Joh; Vote: 6 Yes, 2 No; Commissioner Flitcroft recused himself; Motion Carried.

Brendan Quigley, applicant, 316150, appeared with his Principal Broker Keith Foster requesting a waiver of the 50 mile rule. Mr. Gant's request was heard and denied at the February 2008 meeting; however, he was given to the option to appear with his principal broker to appeal the denial. Commissioner Alexander made a motion to deny; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.

Commissioner Carol Tate and Kathryn Wiseman, TREC's Assistant General Counsel, joined the meeting at 12:02 p.m.

Michael Wardlow, applicant and attorney, appeared to request that he be allowed because of his law degree to bypass the affiliate broker designation and become a broker. Commissioner Alexander made a motion to defer until TREC's legal counsel can get a legal opinion; seconded by Commissioner Flitcroft; opened to discussion; after discussion, Commissioner Alexander rescinded his motion; Commissioner Flitcroft rescinded his second to the motion; Commissioner Northern made a motion to deny but he may reappear; seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.

Vicki Ann Allison, licensee, 294908, requested a waiver of the 50 mile rule. Commissioner Alexander made a motion to deny; Motion failed for lack of a second; opened to discussion; Commissioner Flitcroft made a motion to defer; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.

Deidre Michelle Wilson, licensee, 241203, requested reinstatement of her license without penalty. She was not on the agenda and asked to be recognized by Chairman Haynes and he allowed her to present her case to the Commission. Commissioner Cunningham made a motion to deny; seconded by Commissioner Joh; Unanimous Vote; Motion Carried.

Chairman Haynes recessed the meeting for lunch at 12:25 p.m. The meeting reconvened at 1:50 p.m.

Commissioner Gary Cunningham, Commissioner Wendell Alexander, Commissioner David Flitcroft, and Executive Director Eve Maxwell were absent from the meeting beginning at 1:50 p.m. They were holding a sub-committee meeting for the purpose of Ms. Maxwell's performance review.

EDUCATION REPORT, DR. KATHY RIGGS, EDUCATION DIRECTOR

- Dr. Riggs presented courses for Commission evaluation (**Exhibit 4**). **Commissioner Collins made a motion to not approve the *Courses Requiring Discussion*, "CRB: Managing & Leading Teams", "Fundamental of Mechanic's Liens", and Estimating the Gross Living Area"; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.** Dr. Riggs presented the Commission with a report (**Exhibit 5**) detailing the curriculum for the "SRS: Seller Representation Specialist" course. **Commissioner Northern made a motion to approve the *Course for Reconsideration*, "SRS: Seller Representative Specialist"; seconded by Commissioner Joh; Unanimous Vote; Motion Carried.** **Commissioner Northern made a motion to approve all other *Courses Presented for Commission Evaluation*; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.**
- Dr. Riggs presented information regarding content of previous TREC Core Courses (**Exhibit 6**) and asked for suggestions for the curriculum of the 2009 – 2010 TREC Core Course. **Commissioner Joh made a motion to include as part of the 2009-2010 TREC Core Class the following curriculum: Contracts, TREC Law, Rule & Policy Update, and Supervisional Duties of the Managing Broker; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.**
- **Education Seminars** – Dr. Riggs provided the Commission a calendar (**Exhibit 7**) of education seminars scheduled for May and June 2008.

The Chairman recessed the meeting at 2:09 p.m. The meeting reconvened at 2:55 p.m. after the members of the subcommittee re-entered the meeting. Vice-Chairman Stephenson conducted the meeting instead of Chairman Haynes for the duration of the day.

EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented the following information to the Commission for review:

- **Upcoming ARELLO conferences** – Ms. Maxwell itemized the fees paid by the State of Tennessee for ARELLO membership. She also inquired if anyone would like to attend the ARELLO Spring Conference.

Ms. Maxwell asked the Commission if they would like to meet with Ben Brychta, a vacation lodging instructor and real estate professional, regarding Vacation Lodging Services. **Commissioner Northern made a motion to have Mr. Brychta address the Commission regarding Vacation Lodging Services; seconded by Commissioner Tate; Unanimous Vote; Motion Carried.**

- **PSI Examination Contract** - Ms. Maxwell reviewed the contract amendments for the PSI examination. The proposed amendments are 1) PSI must have permission to proctor the exam offsite; 2) they will ask candidates what school they attended and what instructor taught their class; and 3) a possible new testing location in Middle Tennessee will be opened.
- **Licensing Statistics** – Ms. Maxwell presented statistics (**Exhibit 9**) to the Commission on real estate licenses approved in January and February of 2008, daily totals on new applications and TREC 1 forms, renewal payments by type (percentage/month), total number of licensees as of February 2008, and the percentage of grandfathered licensees by licensee type.
- **Complaint Statistics Report (Exhibit 8)** – TREC has a total of 460 open complaints. Two of the 460 open complaints were staff generated Agreed Citations and 25 are complaints against Principal Brokers pursuant to Policy # 07-002 [Errors & Omissions Insurance]. There are 16 new complaints since the February meeting. There are 444 complaints in the legal department and 16 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2007-2008 is 202. Total Civil Penalties paid in December were \$15,332.00.

Commissioner Alexander made a motion that applicant or licensees who wish to be granted a waiver of the 50 mile rule must appear with their principal broker; seconded by Commissioner Joh; Unanimous Vote; Motion Carried.

It was determined that the licensee request deferred earlier in the day for Vicki Allison, licensee, 294908, for a waiver of the 50 mile rule be granted. Ms. Allison works in property management and per the TREC rules she is exempt from the 50 mile rule.

Commissioner Joh made a motion that the Commission follow the reinstatement policy and require expired licensees to retest and reapply after a year has passed since the date of their expiration; seconded by Commissioner Alexander; opened to discussion; Vote: 2 Yes, 6 No; Motion Failed.

Commissioner Cunningham made a motion that we follow the reinstatement policy as it stands. However, if a licensee has a legitimate reason for allowing their license to expire then Ms. Maxwell should contact Chairman Haynes and ask if the licensee may be heard at the Commission meeting; seconded by Commissioner Northern; Vote: 6 Yes, 2 No; Motion Carried.

Commissioner Cunningham made a motion to have the Commission contact Steve Majchrzak, Assistant Commissioner of Regulatory Boards and recommend a \$5,000.00 raise in salary for Ms. Maxwell; seconded by Commissioner Alexander; Unanimous Vote; Motion Carried.

Commissioner Collins made a motion to award the Bill C. Tune Award to Don Klein, CEO of GNAR; Motion Failed for lack of a second. The discussion was deferred until the policy regarding the award is reviewed by the Commission the following day.

Vice-Chairman Stephenson recessed the meeting Wednesday, March 5, 2008 at 4:52 p.m.

**TENNESSEE REAL ESTATE COMMISSION
March 6, 2008**

The Tennessee Real Estate Commission reconvened on March 6, 2008 at 9:10 a.m. at the Sumner County Administration Building, 355 N. Belvedere Drive, Gallatin, TN 37066. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner David Flitcroft, Commissioner Grover Collins, Commissioner Gary Cunningham, Commissioner Carol Tate, Commissioner Wendell Alexander, and Commissioner Isaac Northern. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Assistant General Counsel, Mandy Brady, Paralegal, and Kelly McDermott, Administrative Secretary.**

There was a discussion between the Commission, Ms. Wiseman, Ms. Maxwell and Ms. Brady regarding follow up on decisions reached by the Commission during the legal reports. Ms. Wiseman presented the Commission with two spreadsheet for the purpose of tracking complaints and disciplinary actions.

Legal Report, Kathryn Wiseman, Staff Attorney (Exhibit 10)

Ms. Kathryn Wiseman, legal counsel for TREC, presented the following complaints to the Commission:

- **2006034161 – Commissioner Northern made a motion to dismiss; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.**
- **2006021321 & 2006021322 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Collins; Vote: 7 Yes, Commissioner Flitcroft abstained; Motion Carried.**
- **2007058241 – Commissioner Northern made a motion to dismiss; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.**
- **2007050221 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.**
- **2006033811 & 2006033812 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Joh; Unanimous Vote; Motion Carried.**
- **2003230291 – Commissioner Flitcroft previously reviewed the case. Commissioner Flitcroft made a recommendation to issue a Consent Order with a Civil Penalty of \$3,000 and flag the file for reapplication. Commissioner Northern made a motion to issue a Consent Order with a Civil Penalty of \$3,000.00. If the respondent pays the \$3,000.00 civil**

penalty and wishes to reapply, he must appear before the Commission for approval and the Mississippi Real Estate Commission should be notified of this disciplinary action; seconded by Vice-Chairman Stephenson; Vote: 7 Yes, Commissioner Flitcroft abstained; Motion Carried.

- **2007050331** – Commissioner Northern previously reviewed the complaint. Commissioner Northern recommended the complaint be dismissed. Commissioner Collins made a motion to dismiss; seconded by Commissioner Tate; Vote: 7 Yes, Commissioner Northern abstained; Motion Carried.
- **2007048451** – Commissioner Collins made a motion to dismiss; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.
- **2007068241** – Commissioner Flitcroft made a motion to close and flag the file for reapplication; seconded by Commissioner Collins; Unanimous Vote; Motion Carried.

COMMISSIONER REPORTS

Commissioner Joh, Commissioner Flitcroft, Commissioner Collins, Commissioner Northern, Commissioner Cunningham, Vice-Chairman Stephenson, Commissioner Alexander, and Commissioner Tate reported on matters of concern to them and to the Commission.

Commissioner Collins made a motion to award the Bill C. Tune Award to Don Klein, CEO of GNAR; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.

Comments from Attendees

Chairman Haynes called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

Chairman Haynes adjourned the meeting Thursday, March 6, 2008 at 11:55 a.m.